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ABSTRACT

Discussed is the implementation of the New York State Child Protective Services Act with emphasis on the implications for teachers who may be the subject of a child abuse or neglect report. (IM)

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THE NEW YORK STATE CHILD PROTECTIVE SERVICES ACT

ITS IMPACT ON SCHOOL SYSTEMS AND CHILDREN'S EDUCATION

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The New York State Child Protective Services Act
Its Impact on School Systems and Children's Education:

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ducation's View of the Law

Few would argue that the Child Protective Services Law of 1973 has done much to improve the lot of children within New York State. It is comforting to know that a system exists which aids children and protects them from injury and impairment by those who are charged to care for them. However, the implementation of the Law has been both boon and bane, especially for those community programs which care for children in loco parentis. The Law clearly states that teachers are mandated reporters when they suspect child abuse. However, teachers may also be the subject of a report. The teacher is one of the few professionals placed in this rather unenviable position that creates conflict for them. Since anyone may report a teacher for suspected child abuse and/or maltreatment, the teacher is rather vulnerable to the whims of individuals who report for folly, or use the Law as a tool to seek revenge, or meet some pathological need.

Coordination of Investigation and Child Protection

An assumption of the Law which clearly does not exist in all cases, is the coordination necessary between schools, local child protective services agencies, and other community resources. Since a report of child abuse or maltreatment is perceived as a rather appalling and critical situation, reporting and intervention is many times haphazard. The situation often results in immediate interventions, such that resource personnel are oftentimes not communicated with a priori to the incident. That is to say, superintendents of schools, buildings principals, and other administrators do not know they are the subject of a report until the investigative team arrives at the school in order to follow-up a suspected incident. It is important to note that school systems, as well as other providers of services to children, are especially vulnerable when they are the subject of the child abuse report.

Specifically, the mechanism used to investigate an alleged child abuse report is disruptive to the ongoing school curriculum and programs. Such an investigation has impact upon staff morale, the effectiveness of teacher and principal intervention with their students, and seriously compromises these individual's roles within the school.

In order to diffuse a potentially deleterious situation, child protective service agencies need to be keenly aware of the school system, the ongoing programs and the people, while the investigation is conducted. The fact of the matter is, that case workers may not be sensitive to the needs of the service which they investigate, and often times totally disrupt the schools' program and the children within the school. In urban centers, especially in schools where the youths are "street wise" and manipulative, investigations may be directed at a youth's whim, in order to disrupt the continuity of the school day, because an examination is given when it is not desired, or just for the fun of it. Yet, according to the Law, every report must be investigated.

What happens when school staff are the subjects of a child abuse report? We are already sensitive to the potentially deleterious situation that results from accusations which are directed towards school personnel. School districts may diffuse much of the negative affect by initiating preliminary ground work before a child abuse report is ever lodged. Much of the bad feelings that emanate from school personnel is due to the individual's anxiety, that is a direct result of the ambiguity which surrounds an investigation of child abuse, as well as the lack of knowledge and facts available to school staff about the Law. One intervention which provides structure may be taken by the Board of Education. Specifically, a broad policy statement relative to child abuse and corporal punishment which includes the Board's position toward school personnel under investigation, available to all staff and citizers within the district is an initial step. The superintendent, as chief school district administrator, and each school building admin strator should then adopt specific guidelines which define the procedures and detail specifically, the process by which a child abuse report is made and investigated. The statement should include: the school district administrator who is responsible for liaison with the local Child Protective Services Department; the actions to be taken toward the employee while the investigation is conducted (i.e. should the employee continue to work, suspension from work, etc.); who coordinates and facilitates the investigation so that it is least disruptive to the child involved as well as the ongoing program within the school. A third action the school district may implement is information dissemination to school personnel and parents relative to the Child Abuse Law. Such issues as what the Law provides, who may report, who are subjects of reports, as well as what are the rights of all parties involved should be included in the document. The statement should also list specific instructions and statements relative to the rights of the person who is the subject of the report.

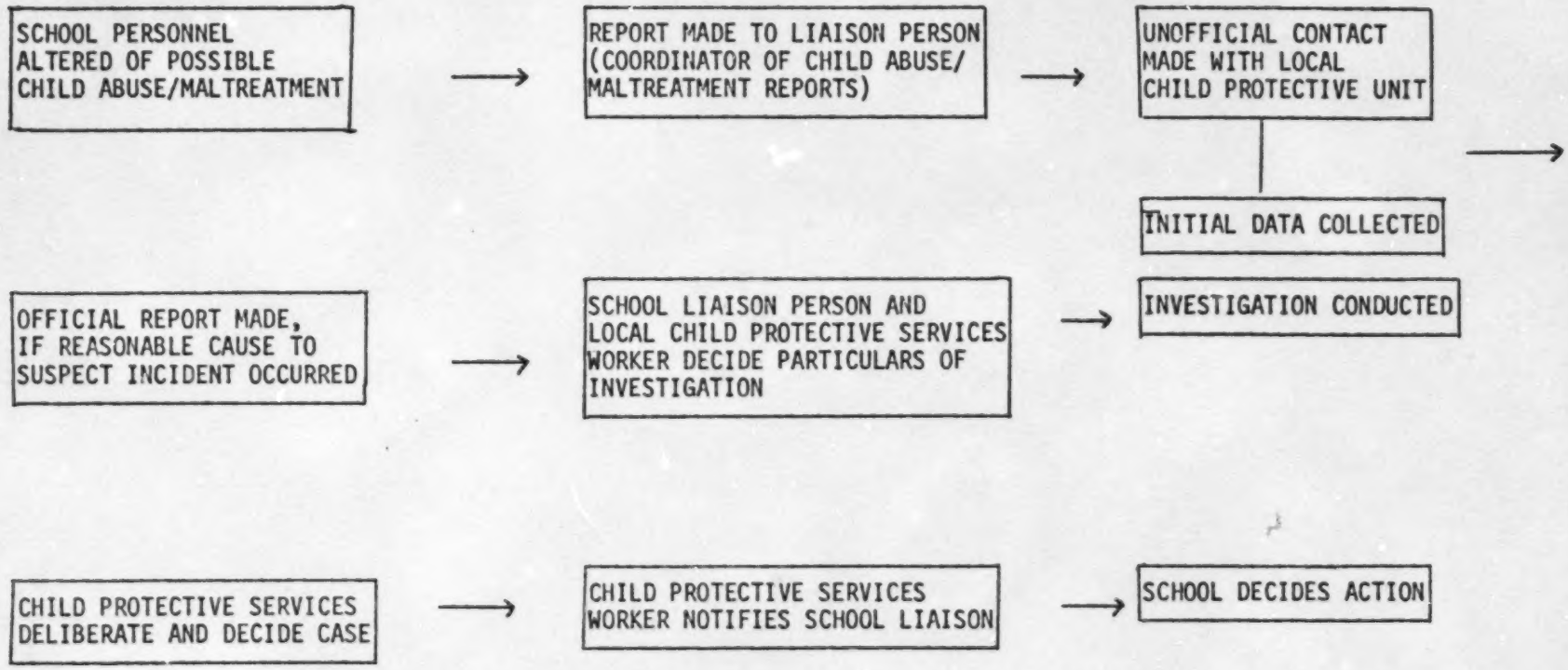
It has been my experience that when staff are cognizant of their rights and feel safe and protected under the Law, as well as have the good sense as to what position their employer takes relative to the Child Protective Services Act, that there is little, if any, disruption to the ongoing program and services for children. Although the responsibility for investigation rests with the local Child Protective Services worker, it is suggested that the investigation be conducted and precautions be taken so as to ensure the continuity of service to the child. School district administrators should take every opportunity to ensure the rights of their employees. The latter is essential for the principle parties involved in any investigation, but even more important for the rest of the staff, who keenly observe the process that unfolds.

It has been my policy to adopt the position that none of my staff are child abusers. Thus, if an incident is reported, I assume that it is the result of a situation rather than to conclude that I have some deviant as an employee or a person who suffers from uncontrollable rage. It is important to note that some believe the dynamics apparent in families when chronic child abuse incidences are reported are not generalizable, nor analogous to personnel who work in the schools. Often, a child abuse incident happens within the schools because of the situation, not because the subject of the report is a child abuser.

I suggest that a system be developed within the schools which is based upon principles of self-regulation, one which guarantees the safety of the children, while at the same time advance the philosophy stipulated by the Board of Education of the school district. I submit the following scenario as one alternative to implement a suitable child protective services program within the school system.

Illustrated in Chart 1, is a process which depicts the involvement of the local Child Protective Services Unit and the school district in a collaborative effort. The process is designed to ensure the continuity of the program in the school, one that does not disrupt the existing system, yet one which protects the child. Suppose there is concern that a school staff member has allegedly abused or maltreated a child. An administrator within the school district, who has been disignated as the liason person with the Child Protective Unit and who coordinates the child abuse/maltreatment reports for the school district, is alerted of the alleged incident. The liaison person simultaneously and immediately initiates two processes. The first, an unofficial contact is made with the local child protective unit so that they are aware an incident has possibly occurred. The second is that the liaison in the school district begins initial data collection to corroborate the report. If the liaison has reasonable cause to suspect that the incident occurred, an official report is made to the local child protective services unit (or the State Central Registry); and plans are made as to when the investigation will be conducted, who will be involved, and the time lines for the investigation to occur. The investigation is then conducted usually chaired by the child protective services case worker. It is important that the liaison person be involved throughout these proceedings and ask the kinds of questions which ordinarily may not be asked specific to the school's system, so that the child protective services worker has a global view of the incident and is sensitive to the needs of the school personnel. It is only under these conditions that Child Protective Services may deliberate and decide the case fairly. It is suggested that the liaison always be part of the deliberation and the decision of the case. The child protective services worker notifies the school liaison of the decision relative to the investigation. The school then decides what action, if any, needs to be taken. It is emphasized that even if a child abuse/maltreatment case is indicated, the school district is under no obligation to take action against the individual involved. The school, however, does have the legal and moral responsibility to ensure that child abuse/maltreatment will not reoccur.

Chart 1: A Collaborative Child Abuse/Maltreatment Investigation
Between School Districts and Child Protective Services


SCHOOL PERSONNEL ALTERED OF POSSIBLE CHILD ABUSE/MALTREATMENT
REPORT MADE TO LIAISON PERSON (COORDINATOR OF CHILD ABUSE/ MALTREATMENT REPORTS)
UNOFFICIAL CONTACT MADE WITH LOCAL CHILD PROTECTIVE UNIT
INITIAL DATA COLLECTED
OFFICIAL REPORT MADE, IF REASONABLE CAUSE TO SUSPECT INCIDENT OCCURRED
SCHOOL LIAISON PERSON AND LOCAL CHILD PROTECTIVE SERVICES WORKER DECIDE PARTICULARS OF INVESTIGATION
INVESTIGATION CONDUCTED
CHILD PROTECTIVE SERVICES DELIBERATE AND DECIDE CASE
CHILD PROTECTIVE SERVICES WORKER NOTIFIES SCHOOL LIAISON
SCHOOL DECIDES ACTION

ervices to Schools

Once a child abuse report is investigated, there are only two possible outcomes. Either a case is unfounded or it is indicated. If a child abuse report is unfounded, all information collected by the local child protective services team, as well as any statements made to the State Central Registry, is expunged. This is mandated by New York State Law, and the Law is specific as to what the State Department of Social Services and local Child Protective Services must do. However, it is not a mandate upon local school districts. Is it wise for local school districts to expunge their records as well? Certainly if these data are to be used to the detriment of the school district employee, then by all means, such materials ought to be eliminated. However, if all references to child abuse incidents are destroyed, how are we to collect information so as to make appropriate changes within our systems, or render alternative services to the principles involved? Eventhough a child abuse case may be unfounded, we must take care to provide appropriate back-up, whether it be inservice training, dissemination of information, or a forum for discussion, so that morale is not adversely affected, nor programs debilitated.

What options are available to the school when a child abuse case is investigated and the report is indicated - that is, indeed school personnel have abused or maltreated a child. One might expect that an employee who is the subject of a child abuse report which is indicated, should immediately be terminated. I implore school district administrators to provide within their administrative policies, a clear statement which mandate that each case be treated on an individual basis. Whereas in the home situation, when a child abuse report is indicated, children are no longer immediately removed from their home situations because we have found that parents do not intentionally and maliciously abuse their children, so much more is the case in the schools. School personnel, if the subject of an indicated case, rarely have maltreated or abused a child intentionally. Rather the incident is purely a situational phenomena, usually due to overcrowded classrooms, insufficient ancilliary services, or inadequate school personnel services. It is suggested that a school personnel services team comprised of a supervisor, the school psychologist, the school counselor, the school social worker, the nurse teacher, or any combination thereof, be available in order to plan for positive interventions, both with the child and the staff member when a case is indicated. Such alternative actions as inservice training, direct supervision, personal counseling, information dissemination, and alternative classroom assignments are just a few of the options available to school districts in order to help the professional who is the subject of an indicated report. All too often, we think of only the drastic or the extreme interventions after a case is indicated. There ought to be a commitment on the part of the school districts to its personnel which helps individuals better cope with the pressures within the school systems.

ntegrative Approach

It is absolutely essential that a system which integrates the report, investigation, conclusion, and further interventions of a child abuse case between the Local Education Agency and the local Department of Social Services, Child Protective Services, be developed. The nature of the child abuse report requires that individuals sensitive to the needs of the school district, as well as the child

and the parent, be available when the report is made. A relationship must be established between the local school district and the local Child Protective Services Unit, based upon mutual confidence, trust, and professionalisms. This usually is easier to accomplish when the same individuals deal with each other in a consistent manner. For this reason, the role of the liaison person in both agencies to work with each other is important. The process of the investigation is equally important. All too often, new case workers assigned to Child Protective Services Units, misuse the authority given to them by the Law so as to be disruptive to the system they are investigating. Analogous to a family situation, the child protective services worker needs to be educated (by the school district) as to appropriate interventions within the system. On the other hand, school districts need to be aware of the time parameters, and the legal aspects required of the case worker, so the investigation may be conducted efficiently and according to Law. The integrative approach necessary between the two agencies, is at first, unofficial and informal. However, at one point in time, such procedures ought to be talked about so that they may be replicated in other school districts and social services districts. An integrative transagency team approach serves yet another function. A school district which is the subject of many reports, even assume unfounded ones, suggests that something is drastically malfunctioning and needs further study. Often times environmental factors, ones mentioned previously, cause the disruption that leads to reports of child abuse or maltreatment. What is most important to note is that incidences of alleged child abuse/maltreatment should not herald doom. Very often, with appropriate analysis and data interpretation, alternative methods, or more efficient systems, are developed so as to prevent such occurrences again.

clusion

The Child Protective Services Law of 1973 has been a most important addition to the Laws of New York State. It has impacted directly upon the lives of children, and has saved thousands of children from physical harm and death. In addition, the law has impacted upon the institutional abuse and maltreatment of children, which was rampant prior to 1973. However at the same time, we in education who are effected by this law need to make appropriate responses to it in order to ensure a continuation of services to the children we must teach. The Law is not specific to the needs of educators, nor was it meant to be. We must develop the systems within the latitude of the statute which protects our school personnel, as well as the children. The suggestions made within this paper are but a beginning. The Law has been drafted not to intimidate schools and other institutions, but make them safer for children. The assumption that we are here to serve the needs of our children is the common foundation upon which we all may build a better Child Protective Services System.